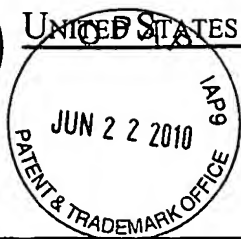




# UNITED STATES PATENT AND TRADEMARK OFFICE



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,102

01/22/2004

Jannis G. Stavrianopoulos

Enz-61(D3)

7436

28171 7590 12/22/2009  
ENZO BIOCHEM, INC.  
527 MADISON AVENUE (9TH FLOOR)  
NEW YORK, NY 10022

EXAMINER

RILEY, JEZIA

ART UNIT

PAPER NUMBER

1637

MAIL DATE

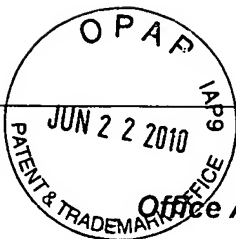
DELIVERY MODE

12/22/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



# Office Action Summary

Application No.

10/763,102

Applicant(s)

STAVRIANOPOULOS ET AL.

Examiner

Jezia Riley

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 287-362 is/are pending in the application.
- 4a) Of the above claim(s) 287-318 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 319-333 and 335-362 is/are rejected.
- 7) ☒ Claim(s) 334 is/are objected to.
- 8) ☐ Claim(s) 287-362 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/10/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Applicant's election of Group II in the reply filed on 11/19/09 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 319-333, 335-362 are rejected under 35 U.S.C. 102(e) as being anticipated by Ju et al. US 6,664,079.

Ju et al. discloses a dye composition comprising a fluorescent dye (col. 13) linked to a moiety comprising an aromatic group, heteroatomic substituents, unsaturated groups and peptide linkage (NH-CO). Said composition is covalently attached to a target via a carbon-carbon linkage. Said target can be a nucleotide analog. (See Figure 7, 15B and 16).

Figure 16 shows ring structure comprising ring structures having polar or charged units such as SO<sub>3</sub>.

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Instant claims 344-345 are also rejected because said claims do not specifically state that the R group is limited to the metallo-organic moiety. The embodiment of claim 343 is still included in those claims which include therefore the R group being alkene, alkyne.

Claim 334 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jezia Riley whose telephone number is 571-272-0786. The examiner can normally be reached on 9:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 571-272-0782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jezia Riley/  
Primary Examiner, Art Unit 1637  
12/15/2009



# **Notice of References Cited**

Application/Control No.

10/763,102

Applicant(s)/Patent Under  
Reexamination  
STAVRIANOPOULOS ET AL.

Examiner

Jezia Riley

Art Unit

1637

Page 1 of 1

## **U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,664,079	12-2003	Ju et al.	435/91.1
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
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	J	US-			
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	M	US-			

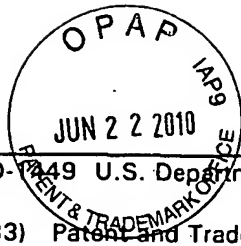
## **FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

## **NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



Sheet 1 of 7

Form PTO-149 U.S. Department of Commerce  
(REV. 8-83) Patent and Trademark OfficeAtty. Docket No.  
ENZ-61(D3)

Serial No. 10/763,102

INFORMATION DISCLOSURE CITATION  
(use several sheets if necessary)

Applicants: Ilan, et al

Filed: January 22, 2004

Group: Not yet known

## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPRO- PRIATE
/J.R./	5 4 9 4 8 1 0	2/96	Barany, et al			
/J.R./	6 0 0 4 2 8 6	12/99	Bellhouse, et al			
/J.R./	5 5 8 2 9 8 4	12/96	Bieniarz, et al			
/J.R./	5 5 9 9 9 3 2	2/97	Bieniarz, et al			
/J.R./	4 9 7 8 6 1 4	12/90	Bronstein, IY			
/J.R./	5 4 6 2 8 5 4	10/95	Coassin, et al			

## FOREIGN PATENT DOCUMENTS

	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	TRANS- LATION YES NO
/J.R./	EP 0 6 6 7 3 9 3	8/16/95	Rabbani et al	A1		
/J.R./	EP 0 0 7 0 6 8 5	7/14/82	Heller, et al	A1		

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)

/J.R./	Ball, et al., "The use of tailed octamer primers for cycle sequencing," <u>Nucl. Acids. Res.</u> 26:5225-5227 (1998)
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/J.R./	Dale, R.M., et al., "Direct covalent mercuration of nucleotides and polynucleotides," <u>Biochemistry</u> 14:2447-2457 (1975)
/J.R./	Dale, R.M., et al., "The synthesis and enzymatic polymerization of nucleotide containing mercury: potential tools for nucleic acid sequencing and structural analysis," <u>Proc. Natl. Acad. Sci. USA</u> 70:2238-2242 (1973)
/J.R./	Doan, T.L., et al., "Targeted cleavage of polynucleotides by complementary oligonucleotides covalently linked to iron-porphyrins," <u>Biochemistry</u> 25:6736-6739 (1986)
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EXAMINER

/Jezia Riley/

DATE CONSIDERED

12/15/2009

\*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /J.R./

Form PTO-1449 U.S. Department of Commerce  (REV. 8-83) Patent and Trademark Office  INFORMATION DISCLOSURE CITATION (use several sheets if necessary)	Atty. Docket No. ENZ-61(D3)	Serial No. 10/763,102
	Applicants: Ilan, et al	
	Filed: January 22, 2004	Group: Not yet known

**U.S. PATENT DOCUMENTS**

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPRO- PRIATE
/J.R./	5 8 4 9 4 8 0	12/98	Cros, et al			
/J.R./	4 8 9 4 3 2 5	1/90	Engelhardt, et al			
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/J.R./	5 2 8 8 6 0 9	2/94	Engelhardt, et al			
/J.R./	6 2 2 1 5 8 1	4/01	Engelhardt, et al			
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/J.R./	WO 9 9 2 8 5 0 0	11/27/98	Lee, et al			
/J.R./	EP 0 9 1 7 0 3 9	1/12/00	Rabbani, et al	A1		

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	Applicants: Ilan, et al	
	Filed: January 22, 2004	Group: Not yet known

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/J.R./	6 3 3 8 9 5 4	1/02	Gemen, B.			
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/J.R./	6 1 1 0 6 3 0	8/00	Reddy, et al			
/J.R./	6 0 0 1 5 7 3	12/99	Roalent, C.			
/J.R./	5 7 0 7 5 5 9	1/98	Schaap, et al			
/J.R./	6 3 2 3 3 3 7	11/01	Singer, et al			

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/J.R./	Schaap, A.P., et al., "Chemical and Enzymatic Triggering of 1,2-Dioxetanes. 3: Alkaline Phosphatase-Catalyzed Chemiluminescence from an Aryl Phosphate-Substituted Dioxetane," <i>Tetrahedron Letters</i> 28:1159-1163 (1987)
/J.R./	Selinger, D.W., et al., "RNA expression analysis using a 30 base pair resolution <i>Escherichia coli</i> genome array," <i>Nature Biotech.</i> 18:1262-1268 (2000)
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/J.R./	4 9 5 2 6 8 5	8/90	Stavrianopolous, et al			
/J.R./	4 9 9 4 3 7 3	2/91	Stavrianopolous, et al			
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/J.R./	5 5 7 8 8 3 2	11/96	Trulson, et al			
/J.R./	5 1 3 2 2 0 4	7/92	Urdea, et al			
/J.R./	5 8 9 1 6 3 6	4/99	Van Gelder, et al			
/J.R./	5 2 6 8 4 8 6	12/93	Waggoner, et al			

## FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	TRANS- LATION YES NO

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## U.S. PATENT DOCUMENTS

EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPRO- PRIATE
/J.R./	5 6 2 7 0 2 7	5/97	Waggoner, et al			
/J.R./	6 0 0 8 3 7 3	12/99	Waggoner, et al			
/J.R./	5 2 7 0 1 8 4	12/93	Walker, et al			
/J.R./	5 4 5 5 1 6 6	10/95	Walker, et al			
/J.R./	4 7 1 1 9 5 5	12/87	Ward, et al			
/J.R./	5 4 5 5 1 7 5	10/95	Wittwer, et al			
/J.R./	6 1 7 4 6 7 0	1/01	Wittwer, et al			

## FOREIGN PATENT DOCUMENTS

DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	TRAN- SLATION YES NO

## OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)


EXAMINER /Jezia Riley/	DATE CONSIDERED 12/15/2009
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ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /J.R./